

## **Item SP05-06 Response Form**

**Title:** **Discovery Objections and Responses** (adopt Cal. Rules of Court, rules 330 and 330.5)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Friday, July 15, 2005
---

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council  
or the Rules and Projects Committee.  
All comments will become part of the public record of the council's action..*

Title	<b>Discovery Objections and Responses (adopt Cal. Rules of Court, rules 330 and 330.5)</b>
Summary	Rule 330 of the California Rules of Court (on good faith objections) and rule 330.5 (on responses to a document demand) would be adopted for the purpose of eliminating groundless objections and clarifying and improving discovery responses.
Source	Civil and Small Claims Advisory Committee Hon. Elihu M. Berle, Chair
Staff	Patrick O'Donnell, Committee Counsel, 415-865-7665 patrick.o'donnell@jud.ca.gov
Discussion	<p>Discovery responses often contain lengthy boilerplate objections. These are not directly responsive to the interrogatory, demand for production of documents, or request for admission that were sent. The two proposed rules are intended to address these problems.</p> <p><i>Rule 330 ( Basis of objections)</i> Rule 330 would provide that each response to (1) an interrogatory, (2) a demand for production of documents, or (3) a request for admissions, if it includes an objection, must include only those objections which are the actual basis on which a substantive response is refused. This rule should reduce the number of unnecessary objections to discovery requests.</p> <p><i>Rule 330.5 (Response to document demand)</i> This rule would provide direction to parties on the proper response that they must provide to demands for production of documents.</p> <p>Subdivision (a) of rule 330.5 would state that the response to each demand must include a statement that : (1) there are responsive documents and they will be produced; or (2) there are no responsive documents; or (3) there are responsive documents, but based on objections, some or all of them will not be produced. If any responsive documents will not be produced based on objections, the response must state the objections.</p> <p>Further guidance on objections would be provided in subdivisions (b)–(e) of rule 330.5. Subdivision (b) would prohibit incorporating general objections in a response unless that objection constitutes a basis in fact for the withholding of documents responsive to the</p>

specific request.

Subdivision (c) would provide that a response must not contain an objection unless the responding party in good faith and on the basis of a reasonable investigation believes the objection is valid.

Subdivision (d) would provide that each objection based on undue burden must specify the factual basis for the objection. Subdivision (e) would provide that, if documents are withheld based on privilege, a privilege log must be provided.

Finally, subdivision (f) of rule 330.5 addresses the problem that parties sometimes fail to produce documents on the date requested. The subdivision would provide that documents must be provided on the date requested under Code of Civil Procedure section 2031.030(c)(2) unless another date is provided by agreement of the parties or the request is subject to an objection consistent with rule 330.5.

---

Attachments

Rules 330 and 330.5 of the California Rules of Court would be adopted, effective January 1, 2006, to read:

**Rule 330. Basis of objections**

Each response to (1) an interrogatory, (2) a demand for production of documents, or (3) a request for admission, if it includes an objection, must include only those specific objections made in good faith which are the actual bases on which a substantive response is refused.

**Rule 330.5. Response to document demand**

**(a) [Contents of response]** The response to each demand for production of documents must include a statement that:

(1) There are responsive documents, and all of them will be produced; or

(2) There are no responsive documents; or

(3) There are responsive documents, but, on the basis of objections, some or all of them will not be produced. For all responsive documents that will not be produced on the basis of objections, the response must state the objections on the basis of which the responding party is not producing those documents.

**(b) [No general objection]** No general objection may be incorporated in a response unless that objection constitutes a basis in fact for the withholding of documents responsive to the specific request.

**(c) [Specific objection]** A response must not contain an objection unless the responding party in good faith and on the basis of responsible investigation, including a review of the responsive documents, believes each specific objection is valid. The responsible investigation need not include a review of all responsive documents if the objection in good faith does not require such a review, such as an objection made on the basis that the demand imposes an undue burden or is not likely to lead to the discovery of any matters relevant to the subject matter involved in the pending action or to the determination of any motion made in that action.

**(d) [Basis for objection based on burden]** Each objection on the basis of undue burden must specify the factual basis for the objection.

- 1 **(e) [Privilege Log]** If documents are withheld on the basis of privilege, a privilege log  
2 must be provided. Any document or category of document included in the privilege  
3 log must be identified in a manner sufficient for its production if the court orders its  
4 production based on a motion to compel production of documents.  
5
- 6 **(f) [Date responsive documents are due]** Responsive documents must be produced on  
7 the date requested under Code of Civil Procedure section 2031.030(c)(2) for  
8 production of the documents, unless another date is provided for by agreement of  
9 the parties or the request is subject to an objection consistent with this rule.